SIKKIM

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HIGH COURT OF SIKKIM
GANGTOK

No. 27/HCS **Dated: 05.08.2006**

NOTIFICATION

CASE FLOW MANAGEMENT RULES, 2006

In exercise of the power conferred by Article 225 of the Constitution of India, Section 8 of the High Court of Judicature (Jurisdiction and Powers) Proclamation of 1955 as amended by the Adaptation of Sikkim Laws (No. 1) order 1975, Part X of the Code of Civil Procedure, 1908 and all other enabling powers, the High Court of Sikkim, hereby makes the following Rules for case flow management in the High Court:

Short title and commencement: -

(1) These rules shall be called the High Court of Sikkim, Case Flow Management Rules 2006.
(2) They shall come into force on the date of their publication in the official Gazette.

I. Division of Cases into different tracks:

1. **Writ Petitions**: The High Court shall, at the stage of admission or issuing notice before admission categorise the Writ Petitions other than Writ of Habeas Corpus, into three categories depending on the urgency with which the matter should be dealt with; the Fast Track, the Normal Track and the Slow Track. The petitions in the Fast Track, shall invariably be disposed of within a period not exceeding six months while the petitions in the Normal Track should not take longer than a year. The petitions in the Slow Track, Subject to the pendency of other cases in the Court, should ordinarily be disposed of within a period of two years.
Where an interim order of stay or injunction is granted in respect of liability to tax or demolition or eviction from public premises etc. shall be put on the fast track. Similarly, all matters involving tenders would also be put on the Fast Track. These matters cannot brook delays in disposal.

2. The Additional Registrar-cum- Senior Reader, of the High Court, nominated for the purpose, shall at intervals of every month, monitor the stage of each case likely to come up for hearing before each Bench (Division Bench or Single Judge) during that month which have been allocated to the different tracks. The details shall be placed before the Chief Justice or Committee nominated for that purpose as well as the concerned Judge dealing with cases.

3. The Judge or Judges referred to in Clause (2) above may shift the case from one track to another, depending upon the complexity, (urgency) and other circumstances of the case.

4. Where computerization is available, data will be fed into the computer in such a manner that the Court or Judge or Judges, referred to in Clause (2) above will be able to ascertain the position and stage of every case in every track from the computer screen.

5. Whenever the roster changes, the Judge concerned who is dealing with final matters shall keep himself informed about the stage of the cases in various tracks listed before him during every week, within a view to see that the cases are taken up early.

6. **Other matters:** The High Court shall also divide the Civil Appeals and other matters in the High Court into different tracks on the lines indicated in sub- clauses (2) to (5) above and the said clauses shall apply, mutatis mutandis, to the civil appeals filed in the High Court. The High Court shall make a subject-wise division of the appeals /revision application for allocation into different tracks.

7. **Writ of Habeas Corpus:**

Notices in respect of Writ of Habeas Corpus where the person is in custody under the order of the State Government or Central Government shall invariably be issued by the Court at the first listing and shall be made returnable within 48 hours. State Government or Central Government may file a brief return enclosing the relevant documents to justified the detention. The matter shall be listed after notice on the fourth working day after issuance of notice, and the Court shall consider whether a more detailed return to the Writ is necessary, and, if so required, shall give further time of a week and three days' for filling a rejoinder. A Writ of Habeas Corpus shall invariably be disposed of within a period of fifteen days. It shall have preference over and above fast-track cases.

8. **Mode of Advance Service:**

The Court rules will provide for mode of service of notice on the standing counsel for Respondents wherever available, against whom, interim orders are sought. Such advance service shall generally relate to Government or public sector undertakings who have Standing Counsel.

FIRST APPEALS

9. **Service of Notice of Appeal:**

First Appeals being appeals on questions of fact and law, Courts are generally inclined to admit the appeal and it is only in exceptional cases that the appeal is rejected under Order XLI Rules 11 at admission stage. In view of the amended CPC, a copy of the appeal is required to be filed in the Trial Court. It has been clarified by the Supreme Court that the requirement of filing of appeal in the Trial Court does not mean that the party cannot file that appeal in the appellate Court (High Court) immediately for obtaining interim orders.

In addition to the process for normal service as per the Code of Civil Procedure, advance notice should simultaneously be given by the counsel for the party who is proposing to file the appeal, to the counsel for the opposite party in the Trial Court itself so as to enable them to inform the parties to appear if they so choose even at the first hearing stage.

10. **Filing of Documents:**

The Appellant shall, on the appeal being admitted, file all the essential papers within such period as may be fixed by the High Court, for the purpose of the High Court understanding the scope of the dispute and for the purpose of passing interlocutory orders.

11. Printing or typing Paper Book:

Printing and preparation of preparation of paper-books by the High Court Should be done away with. After service of notice is effected, counsel for both sides should agree on the list of documents and evidence to be printed or typed and the same shall be made ready by the parties within the time to be fixed by the Court. Thereafter the paper book shall be get ready. The paper books should be ready at least six weeks in advance before the appeal is taken up for arguments. (Cause lists must specify if paper books have been filed or not).

12. Filing of Written submissions and time for oral arguments:

Both the appellants and the respondents shall be required to submit their written submissions with all the relevant pages as per the Court paper-book marked therein within a month of preparation of such paper-books, referred to in para 3 above.

Cause list may indicate if written submissions have been filed. If not, the Court must direct that they be filed immediately.

After the written submissions are filed, (with due service of copy to the other side) the matter should be listed before the Additional Registrar-cum- Senior Reader for the parties to indicate the time that will be taken for arguments in the appeal. Alternatively, such matters may be listed before a judge in chambers for deciding the time duration and thereafter to fix a date of hearing on a clear date when the requisite extent of time will be available.

In the event that the matter is likely to take a day or more, the High Court may consider having a Caution List/ Alternative List to meet eventualities where a case gets adjourned due to unavoidable reasons or does not go on before a court, and those cases may be listed before a court where, for one reason or another, the scheduled cases are not taken up for hearing.

13. Court may explore possibility of settlement:

At the first hearing of a First Appeal when both parties appear, the Court Shall find out if there is a possibility of a settlement. If the parties are agreeable even at that stage for mediation or conciliation, the High Court could make a reference to mediation or conciliation for the said purpose.

If necessary, the process contemplated by Section 89 of CPC may be resorted to by the Appellate Court so that the hearing of the appeal is not unnecessarily delayed. Whichever is the ADR process adopted, the Court should fix a date for a report on the ADR two months from the date of reference.

14. Appeals to Division Bench from judgment of Single Judge of High Court [Letter Patent Appeals (LPA) or similar appeals under High Court Acts]:

An appeal to a Division Bench from judgment of Single Judge may lie in the following cases:

Appeals from interlocutory orders of the Single Judge in original jurisdiction matters including writs; (2) appeals from final judgments of a Single Judge in original jurisdiction; (3) other appeals permitted by any law to a Division Bench.

Appeals against interlocutory orders falling under category (1) above should be invariably filed after advance notice to the opposite counsel (who has appeared before the Single Judge) so that both the sides will be represented at the very first hearing of the appeals. If both parties appear at the first hearing, there is no need to serve the opposite side by normal process and at least in some case, the appeals against interlocutory orders can be disposed of even at the first hearing. If, for any reason, this is not practicable such appeals against interim orders should be disposed of within a period of a month.

In cases referred to above, necessary documents should be kept ready by the counsel to enable the Court to dispose of the appeal against interlocutory matters at the first hearing itself.

In all Appeals against interim orders in the High Court, in Writs and civil matters, the Court should endeavour to set down and observe a strict time limit in regard to oral arguments. In case of Original Side appeals/LPAs arising out of final orders in a Writ Petition or arising out of civil suits filed in the High Court, a flexible time schedule may be followed.

The practice/direction in regard to First Appeal should mutatis mutandis apply in respect of LPAs/Original Side appeals against final judgments of the Single Judge.

Writ Appeals/Letters Patent Appeals arising from orders of the Single Judge in a Writ Petition should be filed with simultaneous service on the counsel for the opposite party who had appeared before the Single Judge or on service of the opposite party.

Writ Appeals against interim orders of the Single Judge should invariably be disposed of early and, at any rate, within a period of thirty days from the first hearing. Before Writ Appeals against final orders in Writ Petitions are heard, brief written submissions must be filed by both parties within such time as may be fixed by the court.

15. Second Appeals:

Even at the stage of admission, the questions of law with a brief synopsis and written submissions on each of the propositions should be filed so as to enable the Court to consider whether there is a substantial question of law. Wherever the Court is inclined to entertain the appeal, apart from normal procedure for service as per rules, advance notice shall be given to the counsel who had appeared in the first appeal letter Court. The notice should require the respondents to file their written submissions within a period of eight weeks from service of notice. Efforts should be made to complete the hearing of the Second Appeals within a period of six months.

16. Civil Revision:

A revision petition may be filed under Section 115 of the Code or under any special statute. The practice direction in regard to LPAs and First Appeals to the High Courts, should mutatis mutandis apply in respect of revision petitions.

17. **Criminal Appeals:**

Criminal Appeals should be classified on the basis of offence, sentence and whether the accused is on bail or in jail. Capital punishment cases, rape, sexual offences, dowry death cases should be kept in Track I. Other cases where the accused is not granted bail and is in jail, should be kept in Track II. Cases which affect a large number of persons such as cases of mass cheating, economic offences, illicit liquor tragedy, food adulteration cases, offences of sensitive nature should be kept in Track III. Offences which are tried by special courts such as POTA, TADA, NDPS, Prevention of Corruption Act, etc. should be kept in Track IV. Track V – all other offences.

The endeavour should be to complete Tack I cases within a period of six months, Track II cases within nine months, Track III within a year, Track IV and Track V within fifteen months.

Wherever an appeal is filed by a person in jail, and also when appeals are filed by State, the complete paper-books including the evidence, should be filed within such period as may be fixed by Court.

In appeals against acquittals, steps for appointment of amicus curie or State Legal Aid counsel in respect of the accused who do not have a lawyer of their own should be undertaken by the Registry/ (State Legal Services Committee) immediately after completion of four weeks of service of notice. It shall be presumed that in such an event the accused is not in a position to appoint counsel, and within two weeks thereafter counsel shall be appointed and shall be furnished all the papers.

18. Note

Wherever there is any inconsistency between these rules and the provisions of either the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1973 or the High Court Act, or any other statute, the provisions of such Codes and statutes shall prevail.

S.W. Lepcha
REGISTRAR GENERAL